

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, April 15, 2003
Tuesday, 903 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp present.

Chris Cherches, City Manager; Gary Rebenstorf, Director of Law; Pat Graves, City Clerk; present.

Rev. Elisha Verge, North Ash Church of the Nazarene, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the regular meeting of April 8, 2003 were approved 7 to 0.

AWARDS AND PRESENTATIONS

PROCLAMATIONS Proclamations previously approved were presented.

PUBLIC AGENDA**Timothy Gruver – Tallgrass Film Festival.**

Timothy Gruver Timothy Gruver, Wichita Association for the Motion Picture Arts, presented the Tallgrass Film Festival Program. Mr. Gruver asked for assistance and said the Association needs an additional \$200,000 for employees and expenses.

Mary Dean – Boeing Company Industrial Revenue Bonds (1985 to 2001).

Mary Dean was not present.

UNFINISHED BUSINESS**AIRPORT CAR
RENTAL SERVICE****ENTERPRISE RENT A CAR AND THRIFTY RENTAL CAR OF WICHITA.**
(Continued from March 25, 2003)

Chris Cherches City Manager reviewed the Item.

Agenda Report No. 03-0396A.

In 1993, the Wichita Airport Authority entered into agreements with both Enterprise and Thrifty Rental Car agencies to provide off-airport car rental services to travelers using Wichita Mid-Continent Airport. Compensation to the WAA for allowing access to Wichita Mid-Continent Airport is 8% of gross receipts. Both companies have requested that they be allowed to become “on-airport” operators and to occupy space in the terminal area. This issue was discussed at three meetings of the Wichita Airport Advisory Board (WAAB), one of which included a public hearing to hear comments from interested

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parties. The WAAB, at its March 3 meeting, voted to allow Enterprise and Thrifty to operate on the airport, and to lease terminal counter and ready-car parking spaces, effective May 1, 2003.

On April 1, 2003, the City Council set this Item for new City Council consideration.

Currently there are six rental car operators located in the terminal building: Avis, Budget, Dollar, Hertz and National/Alamo. Space is available in the terminal to accommodate these two companies, and provide them with ready car spaces. Agreements would expire concurrently with all existing rental car companies on November 30, 2004. Addition of these two companies as on-airport operators would provide more convenience to travelers using Mid-Continent Airport.

Depending upon the level of business done by these two companies, revenues would increase based upon the fact that they would be paying 10% of gross receipts (or a minimum of \$2,000 per month) as opposed to the current payment of 8%. Revenue to the WAA from these two companies in 2002 was \$52,494 at the 8% level.

The Department of Law has opined that the terms of the agreements with the current on-airport rental car agencies do not require the WAA to obtain consent from these agencies before it can place additional agencies in the on-airport spaces. The agreements will be approved as to form by the Department of Law.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.

David Denver Vice President and General Manager of Budget car rental agency, said he did not understand how the airport Board could arrive at the conclusion to approve an additional car rental agency. Mr. Denver said the timing is off.

Mr. Denver said all spaces for car rental agencies are rented. The design of passenger travel areas is so that additional counters would congest the baggage claim area.

Richard Kirkland General Manager of Hertz spoke in opposition to additional agencies at the Airport. Additional companies will force existing companies to lower rates. The current companies are located in a specific area designed for the same.

Bailis Bell Director of Airports said this has to do with FTC guidelines. In this case, the Airport Advisory Board determined there is sufficient space for a short time. When the contracts are up, space will be reallocated. The companies being added do Airport business now and their customers have to wait to be picked up at the Airport causing more congestion in the traffic lanes.

Tim Connor Thrifty Car Rental said all companies and all customers are not created equal. The City has focused on the need for value airlines – with value airlines comes a need for value car rentals. This will not congest the airport. Thrifty has only two-percent of the market.

Dave Johnson Dollar Rent-a-Car agreed with other speakers in opposition. There is no rush as bids will be taken in November of 2004. There will be an extra cost for the City to remodel.

Mindy Dodd Enterprise said the additional companies will bring a little revenue to the Airport and urged approval.

Eva Crissman National and Alamo said the rates offered today are the same as they were 19 years ago. The additional companies will add to the congestion.

Motion -- Fearey moved that the Agreements be approved and the necessary signatures be authorized. Motion carried 7 to 0.
-- carried

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NEW BUSINESS

PREMIER BEVERAGE PUBLIC HEARING AND REQUEST FOR LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS - PREMIER BEVERAGE, INC. (District IV)

Allen Bell

Financial Projects Director reviewed the Item.

Agenda Report No. 03-0414

Premier Beverage Inc. (Premier) is requesting the issuance of a one-year letter of intent for industrial revenue bonds (IRBs) in an amount not to exceed \$3,325,000. Bond proceeds will be used to finance the cost of acquiring, constructing and equipping a distribution facility. Premier Beverage is also requesting the City Council's approval of a 100% five-year tax exemption on bond-financed property and a second five-year exemption upon City Council approval. The new facility will be located at 4626 S. Palisade in south central Wichita.

Premier Beverage, Inc. is a wholly-owned subsidiary of Glazer's, one of the leading distributors of alcoholic beverages in the nation. Glazer's headquarters is located in Dallas, Texas and Premier Beverage has its corporate offices in Lenexa, Kansas. Premier Beverage is one of the largest wholesale distributors of wines, spirits and beer in Kansas, with warehouses in Topeka and Wichita. The company plans to close one of the two warehouses and consolidate statewide distribution activities. The company sought incentives from both cities and chose to consolidate in Wichita, subject to approval of IRBs and tax abatement by the City Council.

Premier will acquire an existing distribution facility consisting of 53,740 s.f. and has committed to hire 30 new employees (in Wichita) in the first year of operation. The City's Business Incentive Policy permits the exemption of existing property only when the property has been vacant for a significant period of time. The property at 4626 S. Palisade has been vacant for over five years.

The warehouse facility would have a broad inventory of wines and spirits with an average case count of 60,000 to 80,000 cases on premise at a time. The company believes that the addition of such high-end wines and other quality products, would bring the city up to par with other communities and having its distribution center in Wichita will benefit the retail liquor and restaurant community. The company also anticipates that 60 to 80 out of town visitors per year will visit this facility spending on the average of two nights in the Wichita area.

An analysis of the uses of project funds is:

Acquisition of Land and Building	\$3,000,000
Construct Building and Site Improvements	150,000
Furniture, Fixtures and Equipment	<u>175,000</u>
Total Cost of Project:	\$3,325,000

The firm Hinkle Elkouri L.L.C. will serve as bond counsel in the transaction. The Company plans to privately place the bonds with a financial institution with which it has an established banking relationship. The Company agrees to comply with the City's requirements contained in the Standard Letter of Intent Conditions. The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City	1.73 to one
County	1.57 to one
USD 259	2.64 to one
State	1.07 to one

The Company agrees to pay all costs of issuing the bonds and the City's \$2,500 annual IRB administrative fee for the term of the bonds. Under the City's Business Incentive Policy, the Company qualifies for a 100% five-plus-five-year tax exemption on property purchased with bond proceeds.

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The estimated first year's taxes on Premier Beverages's proposed \$3,325,000 expansion would be \$90,865, on real property improvements and \$4,326 on personal property, based on the 2002 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$95,191 of new taxes for the real and personal property tax rolls. The tax exemption would be shared among the taxing entities as follows: City - \$26,272; County/State - \$26,152; and USD 259 - \$42,767.

Bond documents needed for the issuance of bonds will be prepared by bond counsel. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

Council Member Lambke Council Member Lambke said it is not good policy to exempt existing companies from taxes. Sooner or later the City will be able to get a buyer for that building.

Allen Bell Financial Projects Director said this building is different because of the refrigeration. The building is out of the range for normal uses. This is an economic development situation. Thirty new jobs will be created.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard.

Dave Binter Local Manager for the new Company said he has been lobbying for the Company to come to Wichita instead of Topeka. This is a very good economic move for Wichita.

Lori Usher Chamber of Commerce said this area in the southern part of Wichita is more difficult to market. This is a great advantage to Wichita.

Allen Bell Financial Projects Director, responding to a question from an unidentified speaker, said the Company is financing their own Industrial Revenue Bonds and the City is a conduit in the financing. The Company will line up a buyer for the bonds. Industrial Revenue Bonds are used because they are necessary to allow for a tax exemption.

Motion -- Gray moved that the public hearing be closed; the Letter of Intent to Premier Beverage, Inc. for Industrial Revenue Bonds in an amount not-to-exceed \$3,325,000, subject to the Standard Letter of Intent Conditions, for a term of one-year, and approve a 100% tax abatement on all bond-financed property for an initial five-year period, plus an additional five years, following City Council review be approved; and the necessary signatures be authorized. Motion carried 6 to 1. Lambke – No.
-- carried

KELLOGG/OLIVER PUBLIC HEARING ON THE ESTABLISHMENT OF A REDEVELOPMENT DISTRICT – TAX INCREMENT FINANCING – FOR THE KELLOGG/OLIVER AREA. (District III)

Allen Bell Financial Projects Director reviewed the Item.

Agenda Report No. 03-0415

On March 4, 2003, the City Council adopted a resolution stating its intent to consider the establishment of a redevelopment district to be known as the Kellogg and Oliver Redevelopment District for the purpose of facilitating the use of tax increment financing. The resolution set 9:00 a.m. or thereafter, on April 15, 2003, as the time for a public hearing before the City Council on this matter. Copies of the resolution were mailed to all owners and occupants of property in the proposed area, and to the Board of Sedgwick County Commissioners and the U.S.D. 259 Board of Education, according to state law.

The City has undertaken extensive improvements to the intersection of Kellogg and Oliver Avenues that resulted in significant changes to the commercial activity at that intersection. In 1996, buildings on the southeast corner of that intersection were damaged or destroyed by a tornado. Most of the property located on the south side of Kellogg, on both sides of Oliver, is owned by one individual, Don Walenta. He is proposing to construct a commercial development project and has requested assistance from the City in the form of tax increment financing.

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Tax increment financing (TIF) allows the increased property tax revenue that results from the redevelopment of under-utilized property to be reinvested in the redevelopment. When a TIF district is established and a redevelopment plan is adopted by City Council, the increased tax revenue is set aside by the County Treasurer and can be used by the City to repay bonds issued to finance certain improvements that are specified in the redevelopment plan. Under state law, tax increment financing may only be used to pay for public improvements, parking facilities, land acquisition and site work.

The Board of County Commissioners and the Board of Education for USD 259 will have 30 days following the public hearing to determine whether the district will have an adverse impact on them, effectively precluding the use of tax increment financing. If the County and School District approve, the tax increment financing district will be established. It will still be up to the City Council to approve the actual use of tax increment financing by adopting a redevelopment project plan for the Kellogg and Oliver Redevelopment District that includes tax increment financing. Once a redevelopment plan is adopted and sent to the County Clerk, the tax increment revenue generated by redevelopment will be set aside and deposited into a special fund for its prescribed use.

The establishment of a redevelopment district will facilitate the use of tax increment financing to pay the cost of a portion of public improvements constructed in conjunction with the proposed Kellogg and Oliver project. Only if the project is approved, a redevelopment plan adopted, and the specific improvements authorized by Council action, will the tax increment revenues generated in the district will actually be utilized.

The ordinance establishing the redevelopment district has been prepared by the City's Law Department. The City Council may amend the proposed boundaries of the redevelopment district at the time of adoption of the ordinance.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion --
-- carried

Lambke moved that the public hearing be closed and the Ordinance establishing a redevelopment district for the Kellogg and Oliver project be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance of the City of Wichita establishing the Kellogg and Oliver Redevelopment District, introduced and under the rules laid over.

HOUSING TAX CREDITS

PUBLIC HEARING FOR MRV, INC. RESOLUTION OF SUPPORT FOR LOW-INCOME HOUSING TAX CREDIT APPLICATION. (District V)

Mark Stanberry

Housing Department reviewed the Item.

Agenda Report No. 03-0416

MRV, Inc., has requested a Resolution of Support from the City Council, in connection with an application for Low-Income Housing Tax Credits (LIHTC's) to be submitted to the State of Kansas. The State of Kansas requires developers to obtain a Resolution of Support from the local government, when applications are submitted for financing through the Low-Income Housing Tax Credit Program.

Under the City's adopted LIHTC policy, developers must present proposed projects to the applicable District Advisory Board (DAB). A subsequent review is required by the Housing Advisory Board (HAB) and the City's Development Coordinating Committee (DCC). In addition, The Planning Department and the Office of Central Inspection review the project for design appropriateness. Once the project is reviewed and approved by the DAB, the HAB, DCC, Planning and OCI, it is forwarded to the City Council for a public hearing with a recommendation regarding the requested Resolution of Support.

The proposed project, Ridge Port Apartments, will be located on approximately seven acres near the southeast corner of 34th Street North and Ridge Road, within the 45-acre Ridge Port project currently

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under development by Ritchie Associates. The Ridge Port project will contain offices and warehouses, banks and three retail centers. The apartment complex will contain eighty-eight (88) units of one, two, and three bedroom apartments. All units will have washer/dryer connections, central heating and air conditioning, carpet and vinyl flooring, and kitchen appliances. Sixty-Six (66) units will be LIHTC-assisted, and twenty-two (22) units will be offered as market-rate units.

In accordance with the City's Tax Credit Policy, at least 20% of the apartment units must be made available to market-rate tenants. The proposed make-up will satisfy this requirement.

The project has been reviewed by the Housing Services Department and has received recommendation for approval of the resolution by the District 5 Advisory Board, the Housing Advisory Board (following comment on the project by the Planning Department and the Office of Central Inspection), and the Development Coordinating Committee. Further, in accordance with City Council Resolution No. R-95-479, the developer has notified property owners within 200 feet of the project, in order to allow them the opportunity to provide comment on the project.

Low Income Housing Tax Credits will be one component of the financing package for the proposed project. The City will not be participating in the project financing.

City Council Resolution No. R-95-479 requires that the City Council hold a public hearing. Upon closing the public hearing the Council may vote on a motion to approve the resolution of support for the application of low-income housing tax credits. The resolution document will be approved as to form by the City Law Department.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion --

-- carried

Mayans moved that the public hearing be closed; the Resolution be adopted; and the necessary signatures be authorized. Motion carried 7 to 0.

RESOLUTION NO. 03-171

A Resolution establishing support for an application for low income tax credits, as required by the State of Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

CONDEMNATIONS

REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES.

Kurt Schroeder

Superintendent of Central Inspection reviewed the Item.

Agenda Report No. 03-0417

On March 4, 2003 a report was submitted with respect to the dangerous and unsafe conditions on five (5) properties. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on April 15, 2003.

On February 4, 2003, the Board of Code Standards and Appeals (BCSA) held a hearing on the following properties:

	<u>Property Address</u>	<u>Council District</u>
a)	1946 South Everett	IV
b)	523 North Matthewson	I
c)	1340 North Washington	I
d)	326 West Morris	I
e)	3151 South Yale	III

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Pursuant to State Statute the Resolutions were duly published twice on March 8, 2003 and March 15, 2003. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of each described property.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared on Items 1, 2, 4, and 5.

Motion --

Mayans moved that the public hearing be closed on Items 1, 2, 4, and 5; the Resolutions declaring the buildings dangerous and unsafe structures be adopted; the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structure. Any extensions of time granted to repair the structure (s) would be conditioned on the following: (1) All taxes have been paid to date, as of April 15, 2003; (2) the structure(s) has/have been secured as April 15, 2003 and will continue to be kept secured, and (3) the premises are mowed and free of debris as of April 15, 2003 and will be so maintained during renovation, be accepted. Motion carried 7 to 0.

-- carried

RESOLUTION NO. 03-172

Resolution finding that the structure described as: Lots 37 and 39, Block M, South University Place Addition to Wichita, Sedgwick County, Kansas, commonly known as 1946 South Everett, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-173

Resolution finding that the structure described as: Lots 37 and 39, Block M, South University Place Addition to Wichita, Sedgwick County, Kansas, commonly known as 523 North Matthewson, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-175

Resolution finding that the structure described as: the east 45 feet of Lot 6 Safety Addition, to Wichita, Sedgwick County, Kansas, commonly known as 326 West Morris, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-176

Resolution finding that the structure described as: Lot 24, Block J, Planeview Sub-Division Addition No. 2, being a sub-division in Section 2, Township 28 South, Range 1 east of the sixth Principal Meridian, to Sedgwick County, Kansas, commonly known as 3151 South Yale, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

1340 N. Washington

Kurt Schroeder

Superintendent of Central Inspection reviewed the Item and said that in accordance with City Council Policy 33, the taxes would be required to be paid current; there are five-years of delinquent taxes and the County has started foreclosure procedures.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

James Freeman

James Freeman, son of the property owner, said he could pay the \$561.03 taxes owed by Friday, April 25, 2003, and he would like an additional 60 to 90 days to complete repairs.

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Motion --

Brewer moved that the public hearing be closed; the Resolution declaring the building dangerous and unsafe structure be adopted; 60 days to complete repairs be allowed; and if the taxes are not paid current by April 25th, and the repairs are not completed within 60-days; the recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structure be followed. Any extensions of time granted to repair the structure (s) would be conditioned on the following: (1) All taxes have been paid to date, as of April 25, 2003; (2) the structure(s) has/have been secured as April 15, 2003 and will continue to be kept secured, and (3) the premises are mowed and free of debris as of April 15, 2003 and will be so maintained during renovation, be accepted. Motion carried 7 to 0.

-- carried

RESOLUTION NO. 03-174

Resolution finding that the structure described as: Lots 18 and 29, on Washington, H.O. Burleigh's Third Addition to Wichita, Sedgwick County, Kansas, commonly known as 1340 North Washington, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, read. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

SOLID WASTE

SOLID WASTE CODE REVISION.

Jack Brown

Environmental Health Director reviewed the Item.

Agenda Report No. 03-0418

The Environmental Health Department regulates solid waste practices within the City. City Code addresses standards for storage, collection, and disposal of residential, commercial, and industrial solid waste.

The existing code has not been significantly changed since 1975. The recommended revisions reflect changes in local solid waste planning, including conversion of the City's Brooks Landfill to a construction and demolition waste facility, and implementation of the transfer station system. The revised code adjusts solid waste hauler license fees, which have remained static for in excess of twenty years, to better support inspection and enforcement activities. Enforcement provisions have also been updated, to better address current due process requirements and define departmental responsibilities.

The sale of solid waste collection vehicle licenses provides partial support for Environmental Health's code enforcement activities, including regulation of trash storage, pickup and disposal. Staff estimates that solid waste enforcement, which includes regulation of haulers and investigation of residential and commercial solid waste complaints, requires the efforts of between 1.5 and 2.0 full time equivalent employees. License fees collected in 2002 amounted to approximately \$ 27,000. The proposed fee adjustments will provide an additional \$ 19,000 annually. This increase was included in the City's 2003 budget assumptions, and contained within the Environmental Health fee revision proposal received by the Council in December of 2002.

The Department of Law has reviewed the proposed code revision, and drafted the implementing ordinance.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Council Member Fearey

Council Member Fearey said constituents had recommended decals on carts – including wording/rules of pickup location, location/placement, and other information as deemed appropriate. The City could work with trash companies, and neighborhood and homeowners associations. This would be more of a communications effort than an enforcement effort. Language (whether or not to include additional languages other than just English) issues can be looked at by before the Ordinance is returned for second reading.

Chris Cherches

City Manager, responding to a question, said the initial cost of the decals might be at city expense under the Environmental Fund. If the decals are bought in quantity, then it might be the responsibility of the

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haulers to purchase the decals for new customers. The decals could be purchased from the City if the City purchased them in large quantity as large quantities would much less expensive.

Gary Rebenstorf Director of Law, answering a question, said a violation of the Ordinance could be fined as set by City Council. Specific language regarding removal of stickers, etc., could be provided prior to second reading of the Ordinance.

Council Member Lambke Council Member Lambke spoke against the Ordinance and the inclusion of additional languages.

Motion -- Fearey moved that the appropriate sections of the proposed Ordinance be amended to require decals, to be placed on refuse containers, information be specified, including but not limited to, the rules of pickup, location of placement, the Ordinance also be amended to include other information such as other languages, fines and penalties, requirements of trash companies; and the Ordinance, as amended, -- carried be placed on first reading.. Motion carried 6 to 1. Lambke – No.

ORDINANCE

An Ordinance amending Sections 7.08.010, 7.08.020, 7.08.030, 7.08.040, 7.08.050, 7.08.055, 7.08.60, 7.08.070, 7.08.075, 7.08.080, 7.08.090, 7.08.100, 7.08.110, 7.08.120, 7.08.125, 7.08.130, 7.08.135, 7.08.140, 7.08.150, 7.08.160, 7.08.170, 7.08.180 and 7.08.190 of the code of the city of Wichita, Kansas pertaining to garbage refuse, introduced and under the rules laid over.

CHAMBER

CHAMBER OF COMMERCE CONTRACT.

Allen Bell Financial Projects Director reviewed the Item.

Agenda Report No. 03-0419

Since 1998, the City has contracted with the Wichita Area Chamber of Commerce to provide certain economic development services. The contract is a joint economic development effort with the Chamber, the City, and Sedgwick County. Under the contract, the Chamber manages specified economic development efforts on behalf of the City and County and works with the respective economic development staffs on various projects. Under the terms of the contract, the Chamber is required to meet certain goals as contained in the approved business plan. City and Chamber staff has negotiated the proposed 2003 contract for services.

The 2003 Economic Development Business Plan has five major areas: Business Development; Research Support; Workforce Development; Air Service; and Community Marketing. City funding is requested for part of the Business Development, Research Support and Community Marketing activities. Contract activities focus on the following objectives as outlined in the draft 2002 work plan for Business Development:

- Strategic Planning. Implement the initiatives relevant to business development and community marketing identified in the 2002 strategic planning process.
- Business Recruiting. Obtain commitment from new companies to locate facilities in the Wichita area and add 675 new jobs in 2003.
- Expansion/Retention of Existing Businesses. Provide community support to existing businesses by assisting in expansion opportunities to secure 1,125 new jobs.
- New Business Development. Work with local service organizations to promote/enhance the creation of new jobs through business start-ups and new business ventures.
- Downtown Core Area. Promote growth and investment in Wichita's downtown to increase building occupancy and increase favorable downtown projects.
- Air Service. Provide support to City and Air Service Task Force efforts to achieve significant reduction in airfares and an improvement of available air service.
- Research Development. Provide and create research information to support economic development business decisions.

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Work covered by the 2003 Contract for Services will be carried out primarily by the Chamber's Economic Development Department, which consists of the Vice President for Economic Development, Economic Development Director, Economic Development Manager, and an Administrative Assistant. Other Chamber staff provides support in the areas of research, workforce development and marketing. The Chamber's economic development efforts are augmented by a work group consisting of economic development staff from the City, County, State, non-governmental agencies and utilities.

City funding in the 2003 contract will be applied as follows:

Personnel costs	\$ 95,600
Business Development costs	51,575
Research Support	34,825
Community Marketing	<u>28,000</u>
Total Contract Amount	\$210,000

Funding for the contractual services is budgeted in the 2003 adopted budget in the Economic Development Fund. Funds will be paid to the Chamber pursuant to invoices showing actual costs incurred subject to the contract budget. Funds not needed for actual contract costs will be retained by the City.

Mayor Mayans Mayor Mayans said he would like to see the Chamber of Commerce present some ideas as to what the Chamber could or would do if additional funds were provided by the City.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion -- Mayans moved that the Contract be approved and the necessary signatures be authorized. Motion
-- carried carried 7 to 0.

CITY COUNCIL AGENDA

APPOINTMENTS

Motion -- Martz moved that the appointments of Dennis Bruner (Park Board) and John Marker (DAB V) be
-- carried approved. Motion carried 7 to 0.

CONSENT AGENDA

Mayans moved that Consent Agenda be approved as consensus Items. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED APRIL 14, 2003.

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains
as per specifications

Waterline along Nevada, between 16th and 17th Streets North to serve Lots 14-23 of West Lynn Addition - north of 13th Street, west of West Street. (448-89754/735097/470767) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Mies Construction - \$23,688.00

66 Inch raw water line, Phase 3 - along 17th Street east from Sheridan to 13th Street and McLean. (448-89439/633720/750807) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

BRB Contractors - \$4,265,047.46

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2003 Contract maintenance asphalt mill & overlay - north of 55th Street South, east of Ridge Road. (472-83732/132714/620369/) Traffic to be maintained during construction using flagpersons and barricades. (Districts I,II,IV,V,VI)

Cornejo & Sons Construction - \$500,000.00 (Engineer's estimate)

2003 Contract maintenance area concrete street repairs Phase 2 - north of Pawnee, east of McLean. (472-83730/132714/) Traffic to be maintained during construction using flagpersons and barricades. (District V, VI)

Barkley Construction - \$273,500.00 (Engineer's estimate)

2003 Contract maintenance asphalt street repairs and quickset slurry seal Phase 2 - north of 55th Street South, east of Seneca. (472-83736/131532/ /132714/) Traffic to be maintained during construction using flagpersons and barricades. (Districts II,V,VI)

Ferguson Paving - \$581,430.00 (Engineer's estimate)

Water supply line to serve Sierra Hills Addition - north of Pawnee, east of 127th Street East. (448-89781/735116/470786) Does not affect traffic. (District II)

Nowak Construction - \$31,019.99

Water distribution system to serve Sierra Hills Addition - north of Pawnee, east of 127th Street East. (448-89782/735117/470787) Does not affect traffic. (District II)

McCullough Excavating - \$83,900.00

Mayans moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

PARK DEPARTMENT/MAINTENANCE DIVISION: Player Benches, Park Tables and Bike Racks. (785023)

ABCreative Inc. -\$ 3,638.89 (Group 2/total net bid)

\$18,025.00 (Group 3/total net bid)

Fry & Associates Inc. - \$686.00 (Group 4/total net bid)

POLICE DEPARTMENT/FIELD SERVICES DIVISION: Police Protection Equipment. (602140)

Mid Continent Safety - \$45,927.21 (Total net bid)

PUBLIC WORKS DEPARTMENT/MAINTENANCE DIVISION: Traffic Signs. (132217)

Signs and Blanks Inc - \$49,887.35 (Total net bid)

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

LICENSES

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

Renewal

2003

(Consumption on Premises)

Ricky D. Morey

Morey's Deli & Keno*

3316 South Broadway

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<u>New Operator</u>	<u>2003</u>	<u>(Consumption on Premises)</u>
Jose L. Mejia	El Jalisco Restaurant*	627 East 47th Street South
Sam Chitalad	Darla BBQ & Thia Cuisine*	8710 West Central

<u>New Operator</u>	<u>2003</u>	<u>(Consumption off Premises)</u>
Jayesthakumer Patel	Shiva LLC	223 East 21st Street North
Jayesthakumer Patel	Shiva LLC	1826 West 13th Street North

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion -- Mayans moved that the licenses be approved subject to Staff review and approval. Motion carried
-- carried 7 to 0.

PRELIMINARY ESTS. PRELIMINARY ESTIMATES:

- a.) 2002-2003 CDBG street, curb, gutter and sidewalk improvements (asphalt mill & overlay and street repairs - north of 8th Street North, east of Arkansas. (472-83728/602410/132714/620369/) Traffic to be maintained during construction using flag persons and barricades. (District I, VI) - \$206,220
- b.) Lateral 73, Main 5, Sanitary Sewer #23 to serve Iron Horse at Oxford - south of 29th Street North, west of Woodlawn. (468-83575/743980/480668) Does not affect existing traffic. (District I) - \$196,000
- c.) 2003 Contract maintenance area concrete street repairs Phase 1 - north of Pawnee, east of McLean. (472-83729/132714/) Traffic to be maintained during construction using flagpersons and barricades. (Districts II, III) - \$314,000
- d.) 2003 Contract maintenance asphalt street repairs and quickset slurry seal - Phase 1 - north of 55th Street South, east of Seneca. (472-83734/131532/) Traffic to be maintained during construction using flagpersons and barricades. (Districts I, II, III) - \$398,350
- e.) 2003 Contract maintenance ultrathin asphalt overlay - north of 47th Street South, east of Maize Road. (472-83733/132714/) Traffic to be maintained during construction using flagpersons and barricades. (Districts I, II, III, IV, V, VI) - \$876,600
- f.) 2003 sanitary sewer rehabilitation, Phase A various locations - north of Pawnee, east of I-235. (468-83599/620367/663488) Traffic to be maintained during construction using flagpersons and barricades.. (Districts I, III, VI) - \$255,000
- g.) 2003 sanitary sewer reconstruction, Phase 3 Various Locations - east of I-235, north of Kellogg. (468-83601/620368/663489) Traffic to be maintained during construction using flagpersons and barricades. (District I, VI) - \$255,000
- h.) Water distribution system to serve Copper Gate Estates - south of 13th Street North, west of 135th Street West. (448-89755/735104/470774) Does not affect existing traffic. (District V) - \$130,000
- i.) Water distribution system to serve Liberty Park - south of 13th Street North, west of 135th Street West. (448-89747/735103/470773) Does not affect existing traffic. (District V) - \$112,000
- j.) Water distribution system to serve Iron Horse at Oxford - south of 29th Street North, west of Woodlawn. (448-89784/735120/470790) Does not affect existing traffic. (District I) - \$100,000

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k) Lateral 342 Four Mile Creek Sewer to serve Whispering Lakes Estates - south of Harry, east of 143rd Street East. (468-83538/743960/480648) Does not affect existing traffic. (District II) - \$313,000

l) Lateral 343 Four Mile Creek Sewer to serve Sierra Hills Addition - north of Pawnee, east of 127th Street East. (468-83538/743977/480665) Does not affect existing traffic. (District II) - \$425,000

m) Lateral 3, Main 13, Sanitary Sewer 23 to serve Wichita Heights High School - south of 53rd Street North, west of Hillside. (468-83535/743964/480652) Does not affect existing traffic. (District I) - \$230,050

Motion -- carried Mayans moved that Preliminary Estimates be received and filed. Motion carried 7 to 0.

SIERRA HILLS

PETITION FOR PUBLIC IMPROVEMENT - WATER DISTRIBUTION SYSTEM TO SERVE SIERRA HILLS ADDITION – EAST OF 127TH STREET EAST, NORTH OF PAWNEE. (District II)

Agenda Report No. 03-0420

On February 11, 2003, the City Council approved a water project to serve Sierra Hills Addition. An attempt to award a construction contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

The project will serve a residential development located east of 127th Street East, north of Pawnee.

The original Petition totaled \$38,000. The new Petition totals \$51,000, with \$25,500 paid by special assessments and \$25,500 paid by the Water Utility. The Utility share is for the cost of over sizing the pipe to serve future development outside the improvement district.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion -- carried Mayans moved that Petition be approved and the Resolution be adopted. Motion carried 7 to 0.

RESOLUTION NO. 03-177

A Resolution amending Resolution No. 03-091 pertaining to the construction of Water Distribution System Number 448-89781 (east of 127th Street East, north of Pawnee, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

STREET CLOSURES

CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures submitted.

CLAIMS ALLOWED

REPORT ON CLAIMS ALLOWED – MARCH, 2003:

<u>Name of Claimant</u>	<u>Amount</u>
Avitia, Leticia Ortega-Martin	\$228.50
DuBois, Craig	\$2,768.82
East Central Veterinary Hospital (Thomas Williams)	\$167.00**
Horvath, Jay G.	\$318.90

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Koehn, Kendel	\$250.20
Lamb, Gladwin	\$252.15
Van Gieson, Darren	\$3,541.58
(c/o American Family Insurance)	
** Settled for lesser amount than claimed.	

Motion – carried Mayans moved that the report be received and filed. Motion carried 7 to 0.

TARA FALLS

CONSTRUCTION ENGINEERING AND STAKING FOR TARA FALLS ADDITION – SOUTH OF HARRY, EAST OF GREENWICH. (District I)

Agenda Report No. 03-0421.

The City Council approved the project on October 22, 2002. On February 11, 2003, the City approved an Agreement with Ruggles & Bohm, P.A. (R&B) to design the improvements. The Design Agreement with R&B requires R&B to provide construction engineering services if requested by the City.

The proposed Supplemental Agreement between the City and R&B provides for construction engineering and staking for the improvements in Tara Falls Addition. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering for this project.

Payment will be on a lump sum basis of \$12,800 and will be paid by special assessments.

Motion -- Mayans moved that the Agreement be approved and the necessary signatures be authorized. Motion
-- carried carried 7 to 0.

ROUNDS ESTATES

EASEMENT ENCROACHMENT – ROUNDS ESTATES ADDITION. (District II)

Agenda Report No. 03-0422.

The Agreement allows David & Paulette Dooman to occupy and construct, improvements on, over, and across the aforesaid public utility easement 10 feet in width described as the south 10 feet of Lot 1, Block 1, Rounds Estates Addition; hereinafter referred to as Tract "A" and waives all rights of action in law arising out of the encroachment into the easement. The improvement is to be a pool house approximately 50 feet west of the southeast corner of said lot 1 and encroaching 8 feet into above said easement. The Agreement allows the City to be held harmless from any and all claims resulting from leaking, cave-in or failure of said sewer line lying within Tract "A" and from claims resulting from replacement or upgrade of lines, manholes, and/or other Department property in the easement.

There are no financial considerations.

The Law Department has reviewed the Easement Encroachment Agreement and approved it as to form.

Motion -- Mayans moved that the Agreement be approved and the necessary signatures be authorized. Motion
-- carried carried 7 to 0.

DESIGN SERVICES

AGREEMENT FOR DESIGN SERVICES - REMINGTON PLACE SECOND ADDITION – SOUTH OF 21ST, EAST OF WEBB. (District II)

Agenda Report No. 03-0423.

The City Council approved the project on February 11, 2003.

The proposed Agreement between the City and Professional Engineering Consultants, P.A. (PEC) provides for the design of bond financed improvements in Remington Place 2nd Addition. Per

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Administrative Regulation 7a, staff recommends the selection of PEC as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment will be on a lump sum basis of \$19,400, and will be paid by special assessments.

Motion --
-- carried

Mayans moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

DESIGN SERVICES

AGREEMENT FOR DESIGN SERVICES - IRONHORSE AT OXFORD ADDITION – WEST OF WOODLAWN, SOUTH OF 29TH STREET NORTH. (District I)

Agenda Report No. 03-0424.

The City Council approved the project on March 18, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements in Ironhorse at Oxford Addition. Per Administrative Regulation 7a, staff recommends the selection of MKEC as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment will be on a lump sum basis of \$59,840, and will be paid by special assessments.

Motion --
-- carried

Mayans moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

WEED/SEED PROG.

FY2003 WEED AND SEED PROGRAM.

Agenda Report No. 03-0425.

The Weed and Seed Program is a federally-funded grant program that brings together Federal, state, and local law enforcement agencies; social service providers; representatives of the public and private sectors; prosecutors; business owners; and neighborhood residents to "weed" out violent crime and gang activity, while "seeding" the community with social services and economic revitalization. The Weed and Seed Program is administered in "officially recognized" sites. Since 1995, the officially recognized site has the following boundaries: Central on the South, Old Manor from 17th to Central and Hillside from 17th to 29th Street on the East, Hydraulic on the West, and 29th Street on the North.

For federal fiscal year 2003, funding for the "weeding" component of the Weed and Seed Program is provided through federal funds granted to the Wichita Family Services Institute, Inc. As outlined in the Memorandum of Understanding, the Wichita Family Services Institute, Inc. will reimburse the City of Wichita for expenses, including overtime and fringe benefits, training, law enforcement equipment and supplies, vehicle rental, and other commodities.

The Wichita Family Services Institute, Inc. will reimburse the City of Wichita for up to \$34,189 to pay for overtime and fringe benefits, training, equipment, supplies, vehicle rental costs, and other commodities. No local match is required.

Motion --
-- carried

Mayans moved that the Memorandum of Understanding and budget be approved, and the necessary signatures be authorized. Motion carried 7 to 0.

SERVICE PROGRAM

KANSAS COMMUNITY SERVICE PROGRAM ACT APPLICATIONS.

Agenda Report No. 03-0426.

On July 1, 1994, the State of Kansas initiated the Kansas Community Service Program Act. The Act authorizes tax credits (from state income tax) for cash contributions made to approved non profit

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organizations by private business firms, financial institutions and insurance companies. The State of Kansas has authorized a total of \$4.13 million in tax credits for the 2004 fiscal year, to eligible projects. Eligible contributors (usually private for profit companies) receive a credit equal to 50% of the amount donated to non-profits. Typically, the tax credit proceeds are used for capital projects, either new facilities or expansion of existing facilities that are one-time in nature. Applications for the State tax credits for non-profits are competitive.

The Urban League of Wichita, Inc., Rainbows United, Inc., The Cerebral Palsy Research Foundation of Kansas, Inc., Inter-Faith Ministries, Young Men's Christian Association of Wichita, Kansas, Knox Center, Inc., have each submitted a request for Local Government Endorsement of their non-profit State tax credit applications. If approved by the State, the contributor is eligible to receive 50% credit of the cash contribution towards their State income taxes for contributions made to the community service organization during a one-year period from the date of application approval.

The Urban League of Wichita, Inc., is requesting a total of \$113,000 in Kansas Community Service Tax Credits for their capital fund raising campaign. Urban League plans to raise a total of \$226,000 for land acquisition and facility improvements. The improvements include: construction a landscaped 24 stall parking lot with screen fencing and lighting; removal of blight and turn the frontage of city block into a landscaped campus on the facilities at the Community Learning Center, 2418 East 9th Street and the adjacent property at 2402 East 9th Street.

The Rainbows United, Inc., is requesting a total of \$250,000 in Kansas Community Service Tax Credits as a part of their target capital campaign goal of \$5,000,000. This amount includes up to \$5,000,000 for 1) either construction or renovation of a child care facility; and 2) an endowment to support ongoing operational costs of services at this center.

The Cerebral Palsy Research Foundation, 5111 E. 21st Street, is requesting a total of \$152,500 in Kansas Community Service Tax Credits for their capital fund raising campaign. Cerebral Palsy plans to raise a total of \$1,952,689 for the renovation of their campus. The renovation includes: renovation of the Timbers Apartment Complex, Carney Center, and Taylor Center.

The Inter-Faith Ministries of 829 North Market, is requesting a total of \$150,000 in Kansas Community Service Tax Credits for their Inter-Faith Permanent Housing Development Project which has an estimated total budget of \$1,611,500. The Inter-Faith Permanent Housing Development Project is located approximately ½ mile north of the "central business district", between Market and Broadway, and 8th St. N. And 9th St. N. This area is within a block of Inter-Faith Ministries Program offices. This project will include the acquisition and building renovation of apartment units to provide permanent housing and supportive services for homeless persons with chronic mental disabilities or substance abuse disabilities.

The YMCA of Wichita, Kansas is requesting an amount of \$50,000 per application in Kansas Community Service Tax Credits for the total per project budget of \$100,000 for the YMCA East Teen Center at 9333 E. Douglas and the YMCA South Teen Center at 3405 S. Meridian. The Teen Centers offer programs to enhance positive youth development, strengthen families, and promote healthy lifestyles for teenage youth.

The Knox Center, Inc., 2924 East Douglas, is requesting a total \$25,000 in Kansas Community Service Tax Credits for capital campaign funds of \$50,000 for land acquisition. Acquiring a new facility will help the Knox Center in providing assistance to people seeking support and counseling to help them overcome drug and/or alcohol addictions.

The applications presented by the Urban League of Wichita, Inc., Rainbows United, Inc., The Cerebral Palsy Research Foundation of Kansas, Inc., Inter-Faith Ministries, Young Men's Christian Association of Wichita, Kansas, Knox Center, Inc., have been reviewed by the Department of Finance and are consistent with the City's goals and objectives.

The proposed applications do not conflict with any local plans, zoning or land use requirements. The endorsement does not obligate the City to fund, supervise or in any way associate itself with the applicant.

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The proposed applications have no impact on City finances and do not require any City financial participation.

Motion --
-- carried

Mayans moved that the applications be supported and the City Manager be authorized to sign the Local Government Endorsement Forms. Motion carried 7 to 0.

WATER MAINS

WATER MAINS INSTALLATION.

Agenda Report No. 03-0427

The City of Wichita provides treated drinking water to over 370,000 people. The service population is projected to increase to over 450,000 people by 2010. To ensure that future water needs of the service area are met, the Water & Sewer Department initiated a study of the water system. In the Water Master Plan, a number of significant system improvements were recommended to ensure adequate service levels now and in the future.

Wichita is expanding to the east, southwest, and northwest portions of the City. The following waterline projects have been identified in the Master Plan as necessary to provide service to accommodate current levels of growth.

- W-841 MacArthur from Ridge to Dugan (District IV)
- W-843 MacArthur from Hoover to 326 ft. W. of Hoover (District IV)
- W-846 143rd St. E. from Cardinal Lane to 1/4 mile S. of Cardinal Lane (District II)
- W-847 143rd St. E. from Central to Siefkes (District II)
- W-850 29th St. N. from 119th St. W. to 1/3 mile E. of 119th St. W. (District V)
- W-904 29th St. N. from 1/3 mile E. of 119th St. W. to Maize Road (District V)
- W-905 29th St. N. from 119th St. W. to 135th St. W. (District V)

The budget for each project (totaling \$1,550,000) has been established and is in the approved Capitol Improvement Program. Projects will be funded from future revenue bonds and/or Water Utility cash reserves.

- W-841 - \$190,000
- W-843 - \$ 30,000
- W-846 - \$100,000
- W-847 - \$250,000
- W-850 - \$180,000
- W-904 - \$300,000
- W-905 - \$500,000

Motion --
-- carried

Mayans moved that the projects be approved and the Resolutions be adopted. Motion carried 7 to 0.

RESOLUTION NO. 03-178

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the City, and to issue Revenue Bonds in a total principal amount which shall not exceed \$190,000, exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 03-179

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the City, and to issue Revenue Bonds in a total principal amount which shall not exceed \$30,000, exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-180

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the City, and to issue Revenue Bonds in a total principal amount which shall not exceed \$100,000, exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-181

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the City, and to issue Revenue Bonds in a total principal amount which shall not exceed \$250,000, exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-182

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the City, and to issue Revenue Bonds in a total principal amount which shall not exceed \$180,000, exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-183

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the City, and to issue Revenue Bonds in a total principal amount which shall not exceed \$300,000, exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-184

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the City, and to issue Revenue Bonds in a total principal amount which shall not exceed \$500,000, exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the

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Resolution be adopted. Motion carried 7 to 0. Ayes: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

PAYMENT

PAYMENT OF JUDGMENT.

Agenda Report No. 03-0428.

In June 2001 the driver of an MTA vehicle collided with another car at the intersection of Topeka and Clark Streets. The driver of the other vehicle was injured and filed suit against the City. This case was tried to a jury the week of March 6, 2003. The jury returned a verdict finding the City at fault and awarding the plaintiff \$51,000 in damages for the injuries he suffered in the accident.

The City is obligated to pay this judgment in the amount of \$51,000, together with court costs.

This judgment will be paid from the tort claims fund.

This lawsuit is finally concluded and the City has been ordered by the court to pay the plaintiff the sum of \$51,000 plus court costs.

Motion --
-- carried

Mayans moved that payment of the judgment of \$51,000 and court costs in Case No. 02 C 2179 be authorized. Motion carried 7 to 0.

ORDINANCE

SECOND READING ORDINANCE: (FIRST READ APRIL 8,2003)

ZON2002-00064/CUP2002-00053 – north of 32nd Street North, west of Rushwood. (District I)

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. ZON20064

PLANNING AGENDA

Dale Miller, Acting Director of Planning, said all items except 29, 31, 33, and 34 could be taken as consensus items.

Mayans moved that all Items, except 29, 31, 33, and 34 be approved as consensus items. Motion carried 7 to 0.

DED2003-09

DED2003-09 – DEDICATION OF ACCESS CONTROL FOR PROPERTY LOCATED NORTH OF CENTRAL, WEST OF MADISON. (District I)

Agenda Report 03-0439.

This Dedication is a requirement of a Conditional Use (CON 2003-01) and is being submitted for the dedication of access control, except for one opening, along Central Avenue.

The Dedication has been reviewed and approved by the Planning Commission.

The Dedication will be recorded with the Register of Deeds.

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Motion -- carried

Mayans moved that the Dedication be accepted. Motion carried 7 to 0.

SUB2002-68

SUB2002-68 – PLAT OF PRAIRIE CROSSING ADDITION – SOUTH SIDE OF CENTRAL, WEST OF 151ST STREET WEST. (COUNTY)

Agenda Report No. 03-0430.

This is unplatted property located in the County within three miles of the City of Wichita.

Since this plat is located in an area where public services are planned to be available for higher density development, Restrictive Covenants have been provided so the 13 building sites may be readily converted to urban-scale lots without replatting. A Certificate of Petitions for City water and sewer services has been submitted. The County will handle the street and drainage improvements, and a County Certificate of Petition has been provided. These documents have been recorded with the Register of Deeds.

Motion --
-- carried

Mayans moved that the documents and plat be approved; the necessary signatures be authorized; and the Resolution be adopted. Motion carried 7 to 0.

RESOLUTION NO. 03-185

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89818 (south of Central, west of 151st Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-186

Resolution of findings of advisability and Resolution authorizing construction of Lateral 3, Northwest Interceptor Sewer (south of Central, west of 151st Street West), 468-83610, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

SUB2003-03

SUB2003-03 – PLAT OF CHAPEL HILL SECOND ADDITION – NORTH SIDE OF 13TH STREET NORTH, EAST OF GREENWICH ROAD. (District II)

Agenda Report 03-0431.

This is a replat of the Chapel Hill Addition. A portion of the site has been approved for a zone change (ZON 2002-49 and ZON 2002-50) from SF-5, Single-Family Residential District to TF-3, Two-Family Residential District, MF-18, Multi-Family Residential District (Lot 1, Block 3), LC, Limited Commercial District (Lots 1, 2 and 3, Block 1), and NR, Neighborhood Retail District (Lot 1, Block 2). Municipal facilities are available to serve the site.

A Restrictive Covenant has been submitted to provide for off-street parking for lots adjacent to narrow streets. A covenant has also been submitted requiring that four (4) off-street spaces be provided for each such lot. A 15-foot street, drainage and utility easement was platted with a covenant provided restricting the use of easements to allow for a street with a narrow or nonstandard right-of-way dedication.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinances should be withheld until such time as the Plat is recorded with the Register of Deeds.

The Restrictive Covenants and Easement for Joint Access will be recorded with the Register of Deeds.

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Motion --
-- carried

Mayans moved that the documents and plat be approved, the necessary signatures be authorized; and ZON 2002-49 and ZON 2002-50 Ordinances be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2002-49

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2002-50

SUB2003-11

SUB2003-11 – PLAT OF KANSAS FOOD BANK WAREHOUSE ADDITION – SOUTH SIDE OF DOUGLAS, EAST OF HYDRAULIC. (District I)

Agenda Report No. 03-0432.

This is a replat of lots in the Black's Addition that includes the vacation of a north-south alley. The applicant has requested a zone change (ZON 2003-06) from B, Multi-Family Residential District to LI, Limited Industrial District for the south portion of the site.

Petitions, all 100%, have been submitted for paving and a sanitary sewer. A Certificate of Petitions has been submitted. The plat is also subject to a Protective Overlay (PO #123) established by ZON 2003-06 addressing signs, lighting, permitted uses, landscaping, screening, architectural controls and access. A Temporary Sewer Easement has been provided to cover an existing sewer line until its relocation. The City of Wichita is shown on the plat as holding a mortgage on the property.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinance should be withheld until such time as the Plat is recorded with the Register of Deeds.

The Certificate of Petitions, Protective Overlay Certificate and Temporary Sewer Easement will be recorded with the Register of Deeds.

Motion --
-- carried

Mayans moved that the documents and plat be approved, the necessary signatures be authorized; the Resolutions be adopted, and the ZON2003-06 Ordinance be placed on first reading. Motion carried 7 to 0.

RESOLUTION NO. 03-187

Resolution of findings of advisability and Resolution authorizing construction of Lateral 51, Sanitary Sewer No. 20, (south of Douglas, east of Hydraulic) 468-83619, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-188

Resolution of findings of advisability and Resolution authorizing improving a hammerhead turnaround on Minnesota Street, north of Lot 23, Black's Addition together with a hammerhead turnaround north of Lots 13 and 14, Black's Addition at the end of the alley, (south of Douglas, east of Hydraulic) 472-83745, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2003-06

VAC2002-00003

VAC2002-00003 – VACATE PORTION OF DRAINAGE EASEMENT DEDICATED BY SEPARATE INSTRUMENT – NORTHWEST OF THE 29TH STREET/RIDGE ROAD INTERSECTION. (District V)

Agenda Report No. 03-0433.

The applicant is requesting that a 1.5-foot wide (x) 26-foot long portion of a 15-foot wide drainage-utility easement dedicated by separate instrument (Film 1941, page 1931, recorded 07-14-1999) be vacated. 7.5-feet of the 15-foot easement runs parallel to the north property line of Lot 44, Block 3, Forest Lakes Addition, 3253 Forest Lakes. The encroachment into the easement was found after the attached garage was built. Approximately 3-inches of the garage foundation and 18-inches of roof overhang encroach into the easement. The Forest Lakes Addition was recorded 04-20-1993.

There is a storm water line in the easement. Storm Water Management recommends vacating only that portion of the 7.5-foot utility easement on Lot 44, Block 3, Forest Lakes Addition where there is an encroachment into it. There are no water, sewer or other utilities in the easement. There are no future plans for water, sewer or other utilities to go into this easement.

No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation, adopting the findings of fact that are incorporated in the Vacation Order. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Motion --
-- carried

Mayans moved that the Vacation Order be approved and the necessary signatures be authorized.
Motion carried 7 to 0.

(Agenda Item No. 29)
CON2003-00004

CON2003-00004 – CONDITIONAL USE FOR ACCESSORY APARTMENT ON PROPERTY ZONED SINGLE-FAMILY RESIDENTIAL – SOUTHEAST OF MT. VERNON AND OLIVER. (District III)

Dale Miller

Acting Director of Planning reviewed the Item.

Agenda Report No. 03-0434.

MAPC Recommendation: Approve, subject to conditions. (11-0)

Staff Recommendation: Deny.

D.A.B. Recommendation: Approve, subject to conditions. (4-3)

The applicant is requesting a "Conditional Use" to allow an accessory apartment for a parent on the rear of Lot 17, Replat of Block 3, Edgewood Addition. The property is located on the south side of Mt. Vernon between Gramar Drive and Pinecrest Avenue, approximately three blocks east of Oliver, and is zoned "SF-5" Single-family residential.

The applicant is requesting to add an accessory apartment as part of a detached garage under construction in the backyard. The existing single-family brick veneer house is located in the front portion of the lot along Mt. Vernon Road. The lot is relatively deep, averaging 240 feet in depth. This allows sufficient space for an accessory structure in the rear yard. However, ground floor building coverage of the three-bay garage and accessory apartment would be approximately 1,800 square feet,

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which is significantly larger than the main structure. Proposed building construction is a pole barn with a metal skin. The site plan shows a paved area east of the garage door openings and at the front of the property near Mt. Vernon, but does not indicate a continuous paved drive connecting these paved areas.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use permit is required for an accessory apartment in the "SF-5" zoning district. As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

- (a) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (d) water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The surrounding area is single-family residential in character, consisting of brick veneer homes, and typically with varying widths of lap siding in the gabled ends of the roof and on additions or detached garages. There are a few duplexes located in the block to the east of the application area.

At the District III Advisory Board hearing held March 19, 2003, the DAB voted (4-3) to recommend approval. Staff indicated that the structure could be built as a garage, but it could not be used for an accessory apartment without the Conditional Use approval. Also, the construction method differed from residential-type construction. The applicant spoke about wanting the accessory apartment for his mother's place of residence, and offered to add residential-type materials to the exterior of the building. The contractor said this kind of construction has been allowed for residences in other jurisdictions. One neighbor spoke in favor of the application and three neighbors spoke in opposition. Those in opposition objected to the size, height and type of materials and construction being used on the structure. DAB members noted that since the structure would be allowed as a garage anyway, it was recommended that the Conditional Use be approved.

At the MAPC hearing held March 20, 2003, MAPC voted (11-0) to approve the Conditional Use subject to conditions given in the staff report plus two additional conditions: (1) brick wainscoting and lap siding be added to the portion of the structure occupied by the accessory apartment and (2) occupancy be limited to close family members. MAPC discussed issues raised at the DAB hearing on scale, type of construction and exterior materials. Kurt Schroeder, Superintendent, Office of Central Inspection, was asked to clarify if the building could be used for residential purposes. He stated that it was his understanding that the building permit was issued for a garage structure only. He responded to questions from MAPC that it would be permitted for residential use if the contractor could supply engineered drawings or make modifications to meet building code requirements. The conditions recommended by MAPC are:

- 1. The accessory apartment shall be subject to all requirements of Section III-D.6.a5 of the Unified Zoning Code.
- 2. The site plan shall be revised, and shall add the following required site plan items: legal description, indicate existing features not shown on the plan submitted (including fences, utilities above or below ground, drainage patterns), required zoning setbacks and easements, all paved areas on the lot (including type of pavement), surrounding structures (including showing the edges of houses on surrounding lots), and any modifications proposed to existing structures or features not shown on the submitted plan.
- 3. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning, and all improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- 4. Construction of improvements shall be completed within one year of approval by the appropriate governing body.

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5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.
6. Brick wainscoting and lap siding shall be added to the exterior facades for that portion of the structure used as an accessory apartment only.
7. The apartment shall be limited to occupancy by immediate family and not to be rented.

Protests representing 31 percent of the property within 200 feet of the subject tract have been received. This protest means it will take a vote of six council members to approve the Conditional Use.

Council Member Lambke Council Member Lambke explained that most of the protests were in objection to the looks of the building. A building permit was acquired to wreck the building, and since a permit had been pulled, construction of the new building was allowed to proceed. In the future, the City should look more closely at what permits are being issued for. If the zoning is denied, the building remains as it is a legally constructed building. The owners have agreed to make modifications to the exterior of the building. The neighbors have legitimate objections. It will not change the looks of the building to allow the owner's mother to live in the building.

Motion -- Lambke moved that the City Council concur with the findings of the MAPC and approve the Conditional Use to permit an accessory apartment, subject to findings in the Staff Report and the recommended conditions, and the Resolution be adopted. Motion carried 7 to 0.
-- carried

RESOLUTION 03-189

A Resolution authorizing a conditional use for accessory apartment, on 0.31 acres zoned "SF-5" single-family residential, located southeast of Mt. Vernon and Oliver in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-D, as adopted by Ordinance No. 44-975, as amended, presented. Lambke moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ZON2000-45

ZON2000-45 – EXTENSION OF TIME TO COMPLETE PLATTING REQUIREMENT FOR ZONE CHANGE REQUEST FROM SINGLE-FAMILY RESIDENTIAL TO LIMITED COMMERCIAL – SOUTH OF CENTRAL, WEST OF TYLER. (District V)

Agenda Report No. 03-0435.

On November 14, 2000, the City Council approved a zone change request from "SF-5" Single-Family Residential to "LC" Limited Commercial on property located south of Central and west of Tyler. Approval of the zone change request was subject to the condition of platting the property within one year. An application to plat the property has not been submitted. At the request of the applicant, staff approved a six-month extension of time to complete platting to May 14, 2002 to allow time to complete unspecified contractual agreements. On June 18, 2002, the City Council approved an additional one-year extension of time to complete platting, again to allow time to complete unspecified contractual agreements. The applicant has requested a two-year extension of time to complete platting, again to allow time to complete unspecified contractual agreements. MAPC Policy Statement No. 5 indicates that third extensions of time to complete platting require City Council approval.

Motion -- Mayans moved that a two-year extension of time be approved to complete platting to May 14, 2005.
-- carried Motion carried 7 to 0.

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(Item No. 31)

ZON2002-00074

ZON2002-00074 – ZONE CHANGE FROM LIMITED INDUSTRIAL TO SINGLE-FAMILY RESIDENTIAL AND NEIGHBORHOOD OFFICE – SOUTH OF 29TH STREET NORTH, EAST OF RIDGE ROAD. (District V)

Dale Miller

Acting Director of Planning reviewed the Item.

Agenda Report No. 03-0436.

MAPC Recommendation: Approve (10-3) subject to platting and a Protective Overlay

D.A.B. Recommendation: Deny (7-0) on March 3, 2003, will reconsider on April 7, 2003

Staff Recommendation: Approve subject to platting and a Protective Overlay

The applicant requests a zone change from “LI” Limited Industrial to “SF-5” Single-Family Residential and “NO” Neighborhood Office on a 5.51 acre unplatted tract located south of 29th Street North and east of Ridge Road. The applicant indicates that the zone change is requested to permit single family residential lots and a home-based office, neither of which is permitted in the “LI” zoning district.

The surrounding area is characterized by a mixture of uses with industrial uses to the west and south and residential uses to the east and north. The properties located south and west of the site are zoned “LI” Limited Industrial and are developed primarily with a cement manufacturing business. Most of the properties located north and east of the site are zoned “SF-5” Single Family Residential are developed with single-family residences. A portion of the lake located east of the site is zoned “LI” Limited Industrial.

A similar zone change request was denied by the City Council in 2001. The applicant appealed the City Council decision in District Court, which upheld the decision of the City Council. The applicant appealed the District Court decision to the Court of Appeals, and the appeal is pending. The applicant subsequently re-filed this zone change request, which is treated as a new zone change request per the re-filing provisions of the zoning code, which allows a new zone change request to be filed one year or more after the original request was denied by City Council.

At the DAB hearing on March 3, 2003, numerous property owners in the vicinity, mostly from the Barefoot Bay neighborhood to the south and east, spoke against the request citing concerns about additional boats accessing the lake and the request being contrary to promises they were made when they purchased their property that the subject property would be one lot and would not be subdivided. The DAB voted 7-0 to recommend denial of the request.

At the MAPC hearing on March 6, 2003, the applicant amended the request to limit the subject property to six residential lots, including one home-based office, and to limit each lot to one boat with a shared boat dock for every two lots, for a total of three boat docks. Numerous property owners from in the vicinity spoke against the request citing the same concerns as presented at the DAB hearing. Numerous letters objecting to the request also were presented at the MAPC hearing. A couple of property owners in the vicinity spoke in favor of the request citing concerns with the types of industrial development that could occur on the property if it were not rezoned. The MAPC voted 10-3 to recommend approval of the request subject to platting the property within one year and subject to the following provisions of a Protective Overlay District:

1. If developed with a residential use, the density of the subject property shall be limited to 6 dwelling units on no more than 6 lots.
2. No more than three boat docks with two boat slips each shall be permitted on the lake from subject property. Each lot on the subject property shall be limited to one watercraft on the lake at any given time for a total of no more than six watercraft from the subject property.
3. Office use on the portion of the subject property zoned “NO” Neighborhood Office shall be limited to a home occupation as permitted by Section IV-E. of the Unified Zoning Code, except that up to four persons not occupying the dwelling unit may be employed in the home occupation.
4. If consented to by the Barefoot Bay Owners’ Association, the subject property shall be subject to “Covenants, Conditions, and Restrictions of Barefoot Bay” as recorded on Film 1479, Pages 0204-

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0234 or as otherwise agreed to from time to time between the owner of the subject property and the Barefoot Bay Owners' Association.

Since the applicant amended the request subsequent to the March 3, 2003 DAB hearing, the DAB will reconsider the request at the April 7, 2003 hearing in light of the new information presented to the MAPC. The result of the DAB reconsideration was not available at the time this agenda report was prepared.

Protest petitions representing over 75% of the property within 200 feet of the subject property have been received, as illustrated on an map. Numerous protest petitions representing properties more than 200 feet from the subject property also have been received. The amount of property within 200 feet of the subject property owned by the protestors exceeds 20%; therefore, a three-fourths majority vote (6 of 7) of the City Council is required to approve the request.

Dale Miller

Acting Director of Planning said that new information had been received whereby the applicant has offered to go down to four lots.

Motion --

Martz moved that, having heard the findings of the MAPC, the zoning request be denied based on the following findings:

1. The zoning and land use pattern in this general area is somewhat unique for the City, with a mix of residential and industrial districts. This is the result of the County zoning a square-mile area centered at 29th and Ridge Road to industrial in 1958. Some of the land, like the Barefoot Bay Additions, has been down-zoned and developed with single-family lots, but other land has been developed and is still being planned for development for commercial and industrial uses. In that context, leaving the Limited Industrial district on the request site is not really out of character with the pattern of the larger area.
2. The applicant has not provided any information to suggest that this property is not suitable to be put to any of the uses that are permitted by the current zoning. The Limited Industrial district allows a wide range of uses, from office to commercial to industrial. Properties in this area have developed for office and industrial uses already, including a recently platted commercial/industrial addition on a nearby property north of 29th and west of Ridge Road.
3. There is substantial testimony in the record from nearby homeowners, in the minutes and letters that have been submitted, that the impact on the lake, including the increase of boating activity, as a result of permitting additional residential lots would be substantial and affect the safety and enjoyment of the lake. Although this lake is privately owned, it can be considered a "community facility" because it is owned by many property owners, and the impact of a zoning change on community facilities is a factor that this body can consider in this case. As was suggested in the minutes of the MAPC meeting, this lake can be compared to an arterial street where we take the traffic capacity of the street into consideration when making a decision on a zoning request.
4. There is substantial neighborhood opposition to this request. This is evidenced by the very thick package of letters that we received with the agenda report, the numerous residents who spoke at the MAPC and DAB meetings in opposition to this request, the protest petitions that total more than 75 percent of the area within 200 feet of the property in question, and the vote of the District V Advisory Board to recommend denial.
5. These findings are based upon the record in this case. The record also includes references to a similar zoning case on this property that was previously considered and denied by the Council in 2001.

-- carried

Motion carried 6 to 1. Gray – No.

ZON2003-00007

ZON2003-00007 – ZONE CHANGE FROM NEIGHBORHOOD OFFICE WITH PROTECTIVE OVERLAY NO. 101 TO SINGLE-FAMILY RESIDENTIAL – SOUTHWEST OF DOUGLAS/RIDGE ROAD INTERSECTION. (District V)

Agenda Report No. 03-0437.

The applicant is requesting "SF-5" Single Family Residential zoning on Lot 16, Block C, Westview Addition, 109 South Ridge. The site is located on the west side of Ridge Road, one lot south of

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Douglas Avenue. The property is currently zoned "NO" Neighborhood Office with P-O Protective Overlay #101; ZON2001-41. ZON2001-41, was approved by the MAPC at their 07-19-2001 meeting and then approved by the WCC at their 08-14-2001 meeting. The owners of the site at that time intended to redevelop the property as an office, and move to a different home. Ownership of the site has changed and the current owners request the "SF-5" zoning to obtain conventional mortgage financing. The current owners intend to use the site/structure as single-family residential.

The site is located in an area of single-family residential, 4-plexes and apartments. The exceptions are two lots (these two lots are part of eight lots in the block, on the west side of Ridge Road, all the same size; 0.44 acres) in the same block of the site. The lot abutting the north side of the site is zoned "GO" General Office and is an insurance office. This lot was zoned "BB" office in 1983. Three lots south of the site is a lot zoned "NO", which is being used as an office. This lot's zoning was changed from "SF-5" to "NO" in 2000.

There have been no changes to the single-family structure as a result of ZON2001-41. There have been no improvements made on the site as a result of ZON2001-41. There is no record of dedication of an additional 2-feet to the utility easement, which was a condition of ZON2001-41.

At the MAPC hearing on March 20, 2003, the MAPC voted 11-0 to recommend approval of the request subject to dedication of an additional two (2) feet to the utility easement. The applicant agreed with the Planning Staff recommendation. One individual spoke in opposition to the requested zoning change at the MAPC hearing. This individual expressed concerns about the number of people living in the single-family residence at the site and questioned if the residence was actually going to be used as the requested zoning change to "SF-5" was intended. The agent for the applicant assured the individual and the MAPC that the applicant and his family were requesting the "SF-5" zoning to secure a mortgage loan for the residence with the intend to live there. The individual that spoke against the zoning change request to "SF-5" at the MAPC hearing, had also called Planning Staff to protest the zoning change. There have been no written protest received.

Motion --
-- carried

Mayans moved that the City Council concur with the findings of the MAPC and approve the zone change; and approve first reading of the Ordinance. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2003-00007

(Item No. 33)
A 03-09

A 03-09 - ANNEXATION REQUEST FOR LAND NORTH OF 29TH NORTH, WEST OF TYLER ROAD, EAST OF MAIZE ROAD, SOUTH OF 29TH STREET NORTH. (District V)

Dale Miller

Acting Director of Planning reviewed the Item.

Agenda Report No. 03-0438.

The City has received requests to annex several adjoining tracts of land situated immediately north of 29th Street North, west of N. Tyler Road, east of N. Maize Road, and also west of N. Maize Road north of 37th Street North. These adjoining tracts of land abut the City of Wichita directly to the south and east. The City is also annexing those portions of 29th Street North, 37th Street North and Maize Road North abutting these said tracts of land. Combined acreage of the tracts requested for annexation totals approximately 438.75 acres.

Portions of the annexation area have been platted as the Fox Ridge Addition, and will be developed for approximately 386 single family residential units phased over ten years. Approximately 22 acres of the tract north and west of the intersection of N. Maize Road and 37th Street North will be developed as a Community Unit Plan containing nine parcels zoned for limited commercial uses, with the balance of the property developed for approximately 116 single family residential units phased over ten years.

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Other properties within the annexation area will remain undeveloped at this time. As part of a water line easement agreement with the City of Wichita, these property owners have consented to and requested annexation effective at such time as the City determines the site eligible for annexation.

All properties will convert to "SF-5" Single Family Residential zoning at the time of annexation approval. The properties requested for annexation have access to Maize Road (four-lane paved surface road) that serves the area as the nearest north-south arterial road. The 2002-2011 City of Wichita Capital Improvement Program has identified future four-lane urban paving improvements to 29th Street North, between Maize Road and Tyler Road, with design work already completed and construction scheduled in 2004. That segment of 29th Street North located between Maize Road and 119th Street West is scheduled for urban paving design work in 2006 and actual construction in 2008. Wichita water and sanitary sewer services are available to the annexation properties.

Under the City-County first response agreement, fire services to these properties currently can be provided within a six (6) to eight (8) minute approximate response time from City Fire Station #16 located at 1632 N. Tyler Road. Upon annexation, police protection will be provided to the area by the

Patrol West Bureau of the Wichita Police Department, headquartered at 661 N. Elder. The annexation properties are located in Unified School District 266 (Maize School District). Annexation will not change the school district.

The annexation requests are consistent with current amendments to the Wichita-Sedgwick County Comprehensive Plan. Adopting the annexation ordinance on this day of its introduction would be in the best interests of the City of Wichita.

The current approximate appraised value of the proposed annexation properties is \$828,194 with a total assessed value of \$32,195. Using the current City levy (\$31.406/\$1000 x assessed valuation), this roughly yields \$1,734 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of development and the current mill levy. Based upon the stated plans of the various property developers, there is projected a combined appraised value of \$101,800,000 for residential use, and \$22,000,000 for commercial use when development is completed. Assuming the current City levy remains about the same, the various developments would roughly yield \$17,207,000 in combined total assessed valuation and \$540,403 in combined total City annual tax revenues.

The properties are eligible for annexation under K.S.A. 12-519, et seq.

- | | |
|---------------------------|---|
| Motion --
-- withdrawn | Martz moved that the annexation be approved; the Declaration of Emergency be approved; the necessary signatures be authorized; and the Ordinance be adopted on first reading. Motion withdrawn. |
| Motion -- carried | Lambke moved that speakers be allowed on this Item. Motion carried 7 to 0. |
| Mayor Mayans | Mayor Mayans inquired whether anyone wished to be heard. |
| Clair Donnelly | Maize Mayor-Elect said he would like to see the item deferred until a workshop can be held between the Cities of Maize and Wichita. The City of Maize would like an opportunity to relate current Maize boundaries. |
| Richard LaMunyon | Maize Operations Manager, representing the Maize City Council, said the City of Maize is still requesting a workshop. Maize requests deferral of this Item until a workshop and information can be put together. The intent is to work out some kind of agreement between Maize and the City of Wichita. This annexation is not in the best interest of Maize or Wichita. The proposed annexation cuts through the City of Maize. Maize needs to increase its tax base to ensure growth. It is incumbent on Maize to provide the infrastructure needed. At this time, the most logical direction for Maize to grow is to the south along Maize Road. This annexation would cut across property Maize proposes to annex. Maize needs to move south and the City of Wichita needs to move west. Maize and Wichita can sit down and work this out. |

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- Mayor Mayans Mayor Mayans said that based on the next annexation case on the City's Agenda, it appears Maize has already gone to the County requesting annexation.
- Council Member Martz Council Member Martz said there has been compromise. The City of Maize approached the City of Wichita to have an area of influence south to the City of Wichita's area of influence. In that discussion, alternate methods were discussed – one, using where the Northwest bypass might be. This is not the venue for debate. Is Maize going to withdraw their annexation case? This annexation is not cutting through Maize. This annexation is based on the Comprehensive Plan. The City of Wichita spent \$32 million on infrastructure improvements in this area. This annexation simply annexes the property at the request of the owner. The City of Wichita is trying to comply with the property owner's request.
- Dale Miller Acting Director of Planning, responding to a question, said requests for annexation are typically consent items with no public hearing. Requests for annexation are unlike unilateral or island annexations. This annexation was a simple request made by the property owner.
- Motion -- Martz moved that the annexation be approved; the Declaration of Emergency be approved; the necessary signatures be authorized; and the Ordinance be adopted on first reading. Motion carried
-- carried 7 to 0.

ORDINANCE NO. 45-701

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto. Martz moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. A-03-09

(Addendum Item No. 34)
A-03-10

A-03-10 ANNEXATION REQUEST FOR LAND NORTH AND SOUTH OF 29TH STREET NORTH, WEST OF NORTH MAIZE ROAD, INCLUDING PORTIONS OF 29TH STREET NORTH. (District V)

Dale Miller Acting Director of Planning reviewed the Item.

Agenda Report No. 03-0439.

The City is acting upon a request to annex 73.86 acres of land situated immediately north and south of 29th Street North, west of N. Maize Road. The annexation properties abut the City of Wichita directly to the south and west. The property owner has not finalized development plans for these properties. The City is also annexing portions of 29th Street North between 119th Street West and Maize Road North.

Land Use and Zoning: The annexation properties are presently in agricultural use and zoned "SF-20" Single Family Residential. Lands surrounding the proposed annexation site to the south and southwest have been developed for residential uses and are zoned "SF-5" Single Family Residential. Lands to the west are currently in agricultural use and zoned "SF-20" Single Family Residential. Lands to the east are in agricultural use and large-lot residential use, and zoned "SF-20" Single Family Residential. The "SF-20" Single Family Residential zoning of the annexation parcels will convert to "SF-5" Single Family Residential upon annexation.

Public Services: Wichita water and sanitary sewer service is readily available to the annexation area.

Street System: The properties requested for annexation have access to Maize Road (four-lane paved surface road) that serves the area as the nearest north-south arterial road, and 29th Street North (two-lane unpaved road) that serves the area as the nearest east-west arterial road. The 2002-2011 City of Wichita Capital Improvement Program has identified future urban paving improvements to 29th Street North, between 119th Street West and Maize Road, with design work scheduled in 2006 and construction scheduled in 2008.

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Public Safety: Under the City-County first response agreement, fire services to this site currently can be provided within a seven (7) to eight (8) minute approximate response time from City Fire Station #16 located at 1632 N. Tyler Road. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 North Elder.

Parks: The nearest park is Sunset Park, located approximately two (2) miles southeast of the annexation site. A paved bike path is located one (1) mile to the south along 21st Street North.

School District: The annexation property is located in Unified School District 266 (Maize School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with current amendments to the Wichita-Sedgwick County Comprehensive Plan. Adopting the annexation ordinance on this day of its introduction would be in the best interests of the City of Wichita.

The current approximate appraised value of the proposed annexation properties is \$170,430 with a total assessed value of \$22,205. Using the current City levy (\$31.406/\$1000 x assessed valuation), this roughly yields \$697 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of development and the current mill levy.

The property is eligible for annexation under K.S.A. 12-519, et seq.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion --

Martz moved that the annexation be approved; the Declaration of Emergency be approved; the necessary signatures be authorized; and the Ordinance be adopted on first reading. Motion carried 7 to 0.

-- carried

ORDINANCE NO. 45-702

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto. Mayans moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. A-03-10

EXECUTIVE SESSION

Motion --

Mayans moved that the City Council recess to executive session to consider consultation with legal counsel on matters privileged in the attorney-client relationship relating to potential litigation, and legal advice; and confidential data relating to the financial affairs or trade secrets of a business; and that the City Council return no earlier than 12:15 p.m. Motion carried 7 to 0.

-- carried

RECESS

The City Council recessed at 11:23 a.m. and returned at 12:21 p.m.

Mayor Mayans

Mayor Mayans announced that no action was necessary as a result of the executive session.

ADJOURNMENT

The City Council meeting adjourned at 12:22 a.m.

Pat Graves CMC
City Clerk